

REQUEST TO WITHDRAW PREMATURELY-ENTERED FINAL REJECTION

This is a request under MPEP § 706.07(d), to withdraw a final rejection that has been entered prematurely. The basis for the request is as follows.

The Office Action dated August 10, 2005 entered a rejection of claim 3 under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2001/0026306 (Yamazaki) in view of U.S. Patent 5,742,311 (Koitabashi) and further in view of U.S. Patent Application Publication No. 2003/0085968 (Shimizu). Claim 3 was a dependent claim, which depended directly from independent Claim 1.

In response to the Office Action, the Amendment dated November 10, 2005 cancelled Claim 3 and incorporated the substance thereof into independent Claim 1. The Amendment further specified that "this should be viewed as a traversal of the rejection of Claim 3", and provided reasons for the traversal.

In response, the instant Office Action withdrew the rejection over Yamazaki in view of Koitabashi and Shimizu. In its place, the Office Action substituted a new rejection, namely a rejection under § 102(e) over Shimizu alone.

The new rejection over Shimizu alone thus constitutes a new rejection that was not necessitated by any action of Applicant. Rather, the new rejection apparently results from the Examiner's reconsideration of the case and the arguments submitted in support of patentability, which resulted in a withdrawal of the initial rejection of Yamazaki in view of Koitabashi and Shimizu, and imposition of a new rejection of Shimizu alone.

The final rejection should therefore be withdrawn as entered prematurely.

See MPEP § 706.07(d). In addition, once the final rejection is withdrawn, entry of this Amendment in whole is also respectfully requested. See MPEP § 706.07(e).

REMARKS

This application has been carefully reviewed in light of the Office Action dated December 23, 2005. Claims 1, 2 and 4 to 10 are in the application, of which Claim 1 remains the sole independent claim. Reconsideration and further examination are respectfully requested.

Claims 1 and 4 to 9 were rejected under 35 U.S.C. § 102(e) over U.S. Patent Application Publication 2003/0085968 (Shimizu, discussed above), and Claim 2 was rejected under § 103(a) over Shimizu in view of U.S. Patent 4,159,790 (Bailey). The rejections are respectfully traversed, as detailed more fully below.

The invention concerns a liquid container for storing a liquid that tends to form a plurality of concentration layers when the container is maintained in a static state, such as when the container is stored or displayed on store shelves. According to the invention, the liquid container includes a hollow tubular member whose one end is connected to a supply port, together with an air introducing port provided at the bottom of the hollow tubular member to introduce air into the tubular member.

As explained in a previous response, the foregoing arrangement provides a beneficial effect in that, as air is introduced into the hollow tubular member through the air introducing port, it rises as a bubble in the tubular member so as to agitate the liquid inside the tubular member. This agitation tends to mix the liquid in the liquid container, thereby de-stratifying the concentration layers.

In entering the rejection over Shimizu, the Office Action took the position that Shimizu's Figure 4 shows a hollow tubular member 102 in which there is at least one liquid supply hole 150. As Applicants understand it, however, Shimizu's hole 150 simply cannot correspond to the claimed liquid supply hole, for the reason that it does not introduce liquid "into the tubular member" as required in the claims. Rather, Shimizu's hole 150 clearly functions as a connective hole through which ink supplying needle 528 is inserted. See paragraph [0064] of Shimizu:

"[0064] Referring to FIG. 4, the recording head 524 (ink jet head) is connected to the ink container 1000 by the ink supplying tube 526. The end of the ink supplying tube 526 on the ink container 1000 side is connected to the buffer chamber 530 of the ink supplying unit 525. The ink supplying unit 525 is provided with a hollow ink supplying needle (ink drawing needle) 528 and a hollow air introducing needle 529, which are connected to the buffer chamber 530. The ink supplying needle for drawing the liquid (ink) from the liquid storage (ink storage portion) 200 is made to penetrate through the elastic member 103 placed in alignment with the first connective hole 150 of the ink container 1000, and reach the internal space of the ink storage portion (container proper) 200, so that the ink within the liquid storage portion (container proper) 200 can be supplied (drawn) through the opening located in the adjacencies of the tip of the ink supplying needle 528. Since the elastic member 103 is in the compressed state, it presses on the peripheral surface of the ink supplying needle 528, sealing the interface between the elastic member 103 and the peripheral surface of the ink supplying needle 528, preventing therefore the ink within the ink storage portion 200 from leaking."

Thus, Shimizu's hole 150 is a liquid supply hole for drawing liquid out of the container, and does not correspond to the claimed liquid supply hole wherein "liquid in the liquid container is introduced into the tubular member through the liquid supply hole ..."

With respect to newly-added dependent Claim 10, that claim specifies that both of the supply port and the air introduction port are located at a bottom of the tubular

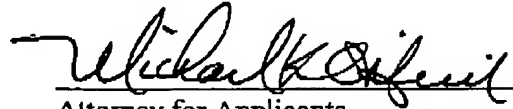
member. Such a structure further distinguishes from the structure shown in Figure 4 of Shimizu. In particular, in Shimizu's Figure 4, it is needle 529 (and not needle 528) that introduces air into the liquid container. Since needle 529 functions in conjunction with only a single cylindrical portion 107, Shimizu does not also disclose or suggest an arrangement in which both a supply port and an air introduction port are located at the bottom of the claimed tubular member. Allowance of Claim 10 is therefore respectfully requested.

Reverting to a formal matter, the Office Action entered objections to Claims 5 and 6 based on inconsistent use of the plural word "holes" as opposed to the singular word "hole" in Claim 1. In response, Claim 5 has been amended so it now depends from Claim 2, so as to avoid this objection.

No other matters being raised in the Office Action, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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